

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 2
DOCKET NO.: 2007-1718-MWD-E **TCEQ ID:** RN102287091 **CASE NO.:** 34829
RESPONDENT NAME: Monarch Utilities I L.P.

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION

SITE WHERE VIOLATION(S) OCCURRED: Lake Fork Estates Wastewater Treatment Facilities, approximately 1,400 feet northwest of the Searcy Cemetery and approximately 0.9 mile northeast of the intersection of State Highway 154 and Farm-to-Market Road 288, Wood County

TYPE OF OPERATION: Wastewater treatment facilities

SMALL BUSINESS: ☐ Yes ☒ No

OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.

INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.

COMMENTS RECEIVED: The *Texas Register* comment period expired on March 31, 2008. No comments were received.

CONTACTS AND MAILING LIST:
TCEQ Attorney/SEP Coordinator: None
TCEQ Enforcement Coordinator: Mr. John Muennink, Enforcement Division, Enforcement Team 5, MC R-14, (361) 825-3423; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171
Respondent: Mr. William Jasura, Vice President, Texas Water Services Group, LLC, Monarch Utilities I L.P., 9511 Ranch Road 620 North, Austin, Texas 78726
Respondent's Attorney: Not represented by counsel on this enforcement matter

VIOLATION SUMMARY CHART:		
VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: September 12, 2007</p> <p>Date of NOV/NOE Relating to this Case: September 21, 2007 (NOE)</p> <p>Background Facts: This was a routine record review.</p> <p>WATER</p> <p>Failed to comply with permitted effluent limitations for five-day biochemical oxygen demand and dissolved oxygen [30 TEX. ADMIN. CODE § 305.125(1), Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0014055001, Effluent Limitations and Monitoring Requirements Nos. 1 and 6, and TEX. WATER CODE § 26.121(a)].</p>	<p>Total Assessed: \$4,140</p> <p>Total Deferred: \$828 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$3,312</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions:</p> <p>The Order will require the Respondent to, within 60 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with the permitted effluent limits of TPDES Permit No. WQ0014055001.</p>

Additional ID No(s): WQ0014055001



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision September 19, 2007

TCEQ

DATES	Assigned	24-Sep-2007	Screening	19-Oct-2007	EPA Due	
	PCW	9-Nov-2007				

RESPONDENT/FACILITY INFORMATION

Respondent	Monarch Utilities I L.P.		
Reg. Ent. Ref. No.	RN102287091		
Facility/Site Region	12-Houston	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	34829	No. of Violations	1
Docket No.	2007-1718-MWD-E	Order Type	1660
Media Program(s)	Water Quality	Enf. Coordinator	Catherine Albrecht
Multi-Media		EC's Team	Enforcement Team 1
Admin. Penalty \$	Limit Minimum	\$0	Maximum
			\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)

Subtotal 1 \$2,000

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History 107% Enhancement Subtotals 2, 3, & 7 \$2,140Notes The Respondent has one NOV for other violations and 21 self-reported effluent violations.Culpability No 0% EnhancementSubtotal 4 \$0Notes The Respondent does not meet the culpability criteria.Good Faith Effort to Comply 0% ReductionSubtotal 5 \$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary	<input type="text"/>	<input type="text"/>
Ordinary	<input type="text"/>	<input type="text"/>
N/A	X	(mark with x)

Notes The Respondent does not meet the good faith criteria.

Total EB Amounts	\$167
Approx. Cost of Compliance	\$2,000

0% Enhancement*
*Capped at the Total EB \$ AmountSubtotal 6 \$0

SUM OF SUBTOTALS 1-7

Final Subtotal \$4,140

OTHER FACTORS AS JUSTICE MAY REQUIRE

 0%Adjustment \$0

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes Final Penalty Amount \$4,140

STATUTORY LIMIT ADJUSTMENT

Final Assessed Penalty \$4,140

DEFERRAL

 20%

Reduction

Adjustment -\$828

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes Deferral offered for expedited settlement.

PAYABLE PENALTY

 \$3,312

Screening Date 19-Oct-2007

Docket No. 2007-1718-MWD-E

PCW

Respondent Monarch Utilities I L.P.

Policy Revision 2 (September 2002)

Case ID No. 34829

PCW Revision September 19, 2007

Reg. Ent. Reference No. RN102287091

Media [Statute] Water Quality

Enf. Coordinator Catherine Albrecht

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	21	105%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 107%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

The Respondent has one NOV for other violations and 21 self-reported effluent violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 107%

Screening Date 19-Oct-2007

Docket No. 2007-1718-MWD-E

PCW

Respondent Monarch Utilities I L.P.

Policy Revision 2 (September 2002)

Case ID No. 34829

PCW Revision September 19, 2007

Reg. Ent. Reference No. RN102287091

Media [Statute] Water Quality

Enf. Coordinator Catherine Albrecht

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code § 305.125(1), TPDES Permit No. WQ0014055001, Effluent Limitations and Monitoring Requirements Nos. 1 and 6, and Tex. Water Code § 26.121(a)

Violation Description

Failed to comply with permitted effluent limitations. See attached table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

	Harm		
Release	Major	Moderate	Minor
Actual			x
Potential			

Percent 10%

>> Programmatic Matrix

	Major	Moderate	Minor
Falsification			

Percent 0%

Matrix Notes

A simplified model was used to evaluate the effects of contaminants on human health and the environment. Failure to comply with permit limits resulted in the exposure of an insignificant amount of contaminants which did not exceed levels protective of human health and the environment.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 2

93 Number of violation days

mark only one with an x	daily	
	monthly	
	quarterly	x
	semiannual	
	annual	
	single event	

Violation Base Penalty \$2,000

Two quarterly events are recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$167

Violation Final Penalty Total \$4,140

This violation Final Assessed Penalty (adjusted for limits) \$4,140

Economic Benefit Worksheet

Respondent Monarch Utilities I.L.P.

Case ID No. 34829

Reg. Ent. Reference No. RN102287091

Media Water Quality

Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost No commas or \$	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling	\$2,000	1-Dec-2006	1-Aug-2008	1.7	\$167	n/a	\$167
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated costs of additional inspection, monitoring, and maintenance of the Facility to ensure effluent compliance based on \$100 per month. Date required is the beginning of the first violation month in this case. Final date is the projected date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$2,000

TOTAL

\$167

Respondent: Monarch Utilities I L.P.
ID Number: RN102287091
Docket Number: 2007-1718-MWD-E
Enf. Coordinator: Catherine Albrecht

Corresponds to Violation 1:

OUTFALL OO1 EFFLUENT LIMITS

Month/Year	BOD ₅ Dly Avg Conc Limit of 10.0 (in mg/L)	BOD ₅ Dly Avg Loading Limit of 2.1 (lbs/day)	DO Minimum Limit of 4.0 (in mg/L)
Dec-06	c	c	2.8
Jan-07	18.9	6.3	c
Mar-07	20.1	3.1	c

Abbreviations: Five-day biochemical oxygen demand ("BOD₅");
Dissolved oxygen ("DO"); Daily Average ("Dly Avg");
Concentration ("Conc"); Pounds per day ("lbs/day");
Milligrams per liter ("mg/L"); Compliant ("c")

Compliance History

Customer/Respondent/Owner-Operator:	CN602740706	Monarch Utilities I L.P.	Classification: AVERAGE	Rating: 2.19
Regulated Entity:	RN102287091	LAKE FORK ESTATES	Classification: AVERAGE	Site Rating: 1.12
ID Number(s):		WASTEWATER WASTEWATER WASTEWATER	PERMIT PERMIT PERMIT	WQ0014055001 TPDES0117455 TX0117455
Location:	Approximately 1,400 feet northwest of the Searcy Cemetery and approximately 0.9 mile northeast of the intersection of State Highway 154 and Farm-to-Market Road 288 in Wood County			Rating Date: September 01 07 Repeat Violator: NO
TCEQ Region:	REGION 05 - TYLER			
Date Compliance History Prepared:	October 16, 2007			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	October 16, 2002 to October 16, 2007			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name:	Catherine Albrecht	Phone:	(713)767-3672	

Site Compliance History Components

- | | |
|--|---|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | Yes |
| 2. Has there been a (known) change in ownership of the site during the compliance period? | Yes |
| 3. If Yes, who is the current owner? | Monarch Utilities I L.P. |
| 4. If Yes, who was/were the prior owner(s)? | Texas Water Services, Inc.
Tecon Water Company, L.P. |
| 5. When did the change(s) in ownership occur? | 11/22/2004 |

Components (Multimedia) for the Site :

A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A

B. Any criminal convictions of the state of Texas and the federal government.
N/A

C. Chronic excessive emissions events.
N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1 04/21/2004 (326144)
2 04/21/2004 (326146)
3 04/21/2004 (326148)
4 04/21/2004 (326150)
5 04/21/2004 (326151)
6 04/21/2004 (326153)
7 04/21/2004 (326154)
8 04/21/2004 (326155)
9 04/21/2004 (326156)
10 04/21/2004 (326157)
11 04/21/2004 (326158)
12 04/21/2004 (326159)
13 04/21/2004 (326160)
14 04/21/2004 (326161)
15 04/21/2004 (326162)
16 04/21/2004 (326163)
17 05/20/2004 (326145)
18 05/20/2004 (326147)
19 05/20/2004 (326149)
20 05/28/2004 (366348)
21 06/21/2004 (326152)
22 07/22/2004 (366349)
23 09/29/2004 (366350)
24 10/12/2004 (366351)
25 11/12/2004 (389695)
26 12/10/2004 (389696)
27 01/10/2005 (389697)

28 01/31/2005 (389694)
29 03/18/2005 (374112)
30 03/21/2005 (389693)
31 04/19/2005 (427208)
32 05/23/2005 (427209)
33 06/22/2005 (427210)
34 07/20/2005 (447298)
35 08/19/2005 (447299)
36 09/21/2005 (447300)
37 10/19/2005 (491867)
38 11/21/2005 (491868)
39 12/21/2005 (491869)
40 01/20/2006 (491870)
41 02/21/2006 (491865)
42 03/21/2006 (491866)
43 04/20/2006 (505965)
44 05/22/2006 (505966)
45 06/19/2006 (505967)
46 06/20/2006 (483237)
47 07/19/2006 (528206)
48 08/15/2006 (528207)
49 09/20/2006 (528208)
50 09/21/2007 (594277)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 11/30/2002 (326160)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 12/31/2002 (326162)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 01/31/2003 (326144)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 04/30/2003 (326150)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 03/31/2004 (326149)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 04/30/2004 (366348)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 05/31/2004 (326152)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 07/31/2004 (366350)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 08/31/2004 (389694)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 07/31/2005 (447299)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 08/31/2005 (447300)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 09/30/2005 (491867)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 10/31/2005 (491868)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 11/30/2005 (491869)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 12/31/2005 (491870)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 01/31/2006 (491865)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 03/31/2006 (505965)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 04/30/2006 (505966)
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 06/23/2006 (483237)
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 317 317.4(a)(8)
30 TAC Chapter 317 317.7(i)
Description: Failure to perform an annual inspection on the Reduced Pressure Zone (RPZ) backflow preventer for the wastewater treatment plant.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)(B)
30 TAC Chapter 305, SubChapter F 305.125(1)(C)[G]
Description: Failure to provide sludge records during the investigation.

Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 319, SubChapter A 319.11(a)
30 TAC Chapter 319, SubChapter A 319.11(b)
Description: Failure to perform a manganese correction during the sampling event for chlorine.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 319, SubChapter A 319.7(c)
Description: Failure to provide accurate Discharge Monitoring Reports (DMR) for review during this investigation.

Date: 12/31/2006
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 01/31/2007
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

Date: 03/31/2007
Self Report? YES Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]
Description: Failure to meet the limit for one or more permit parameter

F. Environmental audits.
N/A

G. Type of environmental management systems (EMSs).
N/A

H. Voluntary on-site compliance assessment dates.
N/A

I. Participation in a voluntary pollution reduction program.
N/A

J. Early compliance.
N/A

Sites Outside of Texas
N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
MONARCH UTILITIES I L.P.
RN102287091**

**§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§ ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2007-1718-MWD-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Monarch Utilities I L.P. ("the Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a wastewater treatment facility located approximately 1,400 feet northwest of the Searcy Cemetery and approximately 0.9 mile northeast of the intersection of State Highway 154 and Farm-to-Market Road 288 in Wood County, Texas (the "Facility").
2. The Respondent has caused, suffered, allowed or permitted the discharge of any waste or the performance of any activity in violation of TEX. WATER CODE ch. 26 or any rule, permit, or order of the Commission.
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about September 26, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Four Thousand One Hundred Forty Dollars (\$4,140) is assessed by the Commission in settlement of the violations alleged in Section II

("Allegations"). The Respondent has paid Three Thousand Three Hundred Twelve Dollars (\$3,312) of the administrative penalty and Eight Hundred Twenty-Eight Dollars (\$828) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have failed to comply with permitted effluent limitations, as listed in the table below, in violation of 30 TEX. ADMIN. CODE § 305.125(1), Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0014055001, Effluent Limitations and Monitoring Requirements Nos. 1 and 6, and TEX. WATER CODE § 26.121(a), as documented during a record review conducted on September 12, 2007.

Month/Year	BOD ₅ Dly Avg Conc Limit of 10.0 (in mg/L)	BOD ₅ Dly Avg Loading Limit of 2.1 (lbs/day)	DO Minimum Limit of 4.0 (in mg/L)
Dec-06	c	c	2.8
Jan-07	18.9	6.3	c
Mar-07	20.1	3.1	c

Abbreviations: Five-day biochemical oxygen demand ("BOD₅");
Dissolved oxygen ("DO"); Daily Average ("Dly Avg");
Concentration ("Conc"); Pounds per day ("lbs/day");
Milligrams per liter ("mg/L"); Compliant ("c")

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations, which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Monarch Utilities I L.P., Docket No. 2007-1718-MWD-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. It is further ordered that the Respondent shall, within 60 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with the permitted effluent limits of TPDES Permit No. WQ0014055001. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

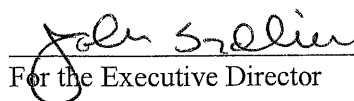
Water Section, Manager
Tyler Regional Office
Texas Commission on Environmental Quality
2916 Teague Drive
Tyler, Texas 75701-3734

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission


For the Executive Director

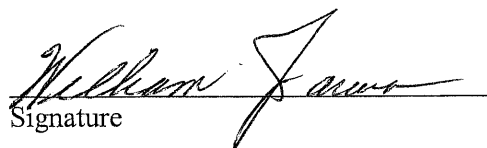
3/7/2008
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.


Signature

12-19-07
Date

William J. Asura
Name (Printed or typed)
Authorized Representative of
Monarch Utilities I L.P.

Vice President
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

